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December 20, 2001

CC 01-347

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Office of the Secretary
Federal Communications Commission
Room TW-B-204
445 Twelfth Street, S.W.
Washington, D.C. 20554

**REDACTED -
For Public Inspection**

Re: Application by Verizon New Jersey Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in New Jersey

Dear Ms. Salas:

This is the cover letter for the Application by Verizon New Jersey Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in New Jersey ("the Application").

This Application contains confidential information. We are filing confidential and redacted versions of the Application.

1. The Application consists of (a) a stand-alone document entitled Application by Verizon New Jersey for Authorization To Provide In-Region, InterLATA Services in New Jersey ("the Brief"), and (b) supporting documentation. The supporting documentation is organized as follows:

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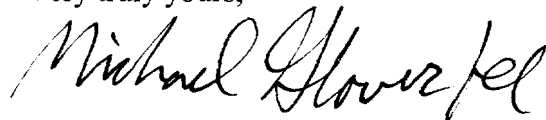
- a. Appendix A includes declarations and attachments thereto in support of the Brief;
 - b. Appendices B through J consist of various materials including selected portions of the New Jersey Board of Public Utilities proceedings, third-party OSS evaluations, Carrier-to-Carrier Guidelines, interconnection agreements, and additional supporting documents;
 - c. Appendix K consists of Carrier-to-Carrier reports and Summary Measurements Reports.
2. Specifically, we are herewith submitting for filing:
- a. One original of only the portions of the Application that contain confidential information (in paper form, except for Appendix K, which is being filed only on CD-ROM);
 - b. One original of a redacted Application (in paper form);
 - c. One copy of the redacted Application (in paper form);
 - d. Two CD-ROM sets containing the Brief and the supporting-documentation portion of the redacted Application; and
 - e. Four additional copies of the redacted Application (partly in paper form and partly on CD-ROM, in accordance with the Commission's filing requirements), so that each Commissioner may receive a copy.

3. We are also tendering to you certain copies of this letter and of portions of the Application for date-stamping purposes. Please date-stamp and return these materials.

4. Under separate cover, we are submitting copies (redacted as appropriate) of the Application to Ms. Janice Myles, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Room 5-C-327, 455 12th Street, S.W., Washington, D.C. 20554. We are also submitting copies (redacted as appropriate) to the Department of Justice, to the New Jersey Board of Public Utilities, and to Qualex (the Commission's copy contractor).

Thank you for your assistance in this matter. If you have any questions, please call me at 703-351-3860 or Steven McPherson at 703-351-3083.

Very truly yours,

A handwritten signature in black ink, reading "Michael Glover". The signature is written in a cursive, flowing style.

Michael E. Glover

Encs.

Before the
Federal Communications Commission
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of)
)
Application by Verizon New Jersey)
Inc., Bell Atlantic Communications,)
Inc. (d/b/a Verizon Long Distance),)
NYNEX Long Distance Company)
(d/b/a Verizon Enterprise Solutions),)
Verizon Global Networks Inc., and)
Verizon Select Services Inc., for)
Authorization To Provide In-Region,)
InterLATA Services in New Jersey)

CC Docket No. 01- 347

APPLICATION BY VERIZON NEW JERSEY
FOR AUTHORIZATION TO PROVIDE IN-REGION,
INTERLATA SERVICES IN NEW JERSEY

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Attachment B: Required Statements

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APPENDICES

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- Volume 2. Tab B – Joint Declaration of Kathleen McLean, Raymond Wierzbicki, and Catherine T. Webster (Operations Support Systems)
- Volume 3. Tab C – Joint Declaration of Elaine M. Guerard, Julie A. Canny, and Marilyn C. DeVito (Performance Measurements)
- Tab D – Joint Declaration of Patrick A. Garzillo and Marsha S. Prosini (Pricing)
- Tab E – Declaration of Susan C. Browning (Section 272 Compliance)
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- Appendix B: Selected Portions of the Record of New Jersey Board of Public Utilities – Section 271 Proceeding (Docket No. TO001090541)
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INTRODUCTION AND SUMMARY

The local market in New Jersey is open, the checklist is satisfied, and consumers are now entitled to the enormous benefits that experience has shown will follow from Verizon's entry into the long distance business. Verizon's Application to provide interLATA services originating in New Jersey should be granted.

This Application presents a clear-cut case for approval because Verizon has taken the same extensive steps to open its local markets in New Jersey as it has taken in other Verizon States where the Commission has found that Verizon satisfies all the requirements of the Telecommunications Act of 1996 ("1996 Act" or "Act"). Indeed, Verizon uses substantially the same processes and procedures to provide the various checklist items in New Jersey as it uses in its 271-approved States — New York, Massachusetts, Pennsylvania, and Connecticut. And competing carriers have actually used the various checklist items in large commercial volumes to enter the local market in New Jersey through all three entry paths available under the Act. As of October 2001, competing carriers already served approximately 564,000 lines in New Jersey, more than half of which were provided either wholly or partially over facilities they deployed themselves (including in all cases their own local switches) with the remainder provided through unbundled network element ("UNE") platforms or through resale.

Moreover, as was the case in Verizon's prior applications, Verizon's operations support systems ("OSS") in New Jersey are in place, operational, handling large commercial volumes, and have been subjected to an exhaustive third-party test. For example, in the first ten months of this year alone, Verizon's pre-ordering systems processed more than 1.3 million transactions in New Jersey and its ordering systems processed more than 400,000 transactions.

At the same time, Verizon's performance has been excellent across the board. Verizon measures its performance in providing access to the checklist items in New Jersey under comprehensive performance measurements adopted by the New Jersey Board of Public Utilities ("BPU"). These measurements are predominantly the same as those used in Verizon's 271-approved States. From August through October 2001 — the most recent three-month period for which data are available — Verizon's performance under the BPU-approved measurements demonstrates that it:

- met the intervals for providing interconnection trunks to CLECs 99.5 percent of the time;
- met the intervals for providing physical collocation arrangements to CLECs 100 percent of the time;
- completed more than 99 percent of CLECs' platform orders, and 96 percent of CLECs' stand-alone voice-grade loop orders, on time;
- completed more than 97 percent of CLECs' hot-cut orders on time;
- met nearly 98 percent of its installation appointments for CLECs' unbundled DSL-capable loops; and
- met more than 99 percent of its installation appointments for CLECs' resale orders that did not require the dispatch of a Verizon technician, and more than 95 percent of resale orders that did require a dispatch.

Verizon's real-world experience also is confirmed by an independent third-party test by KPMG on which Verizon received a perfect score. Acting under the supervision of the BPU, KPMG evaluated 536 different aspects of Verizon's systems, and found that Verizon satisfied the test criteria on each and every one. Indeed, based on these superior test results, even WorldCom has conceded that "KPMG did an excellent job on the OSS test in this state. In fact, one of the best."

Moreover, Verizon's wholesale rates were set by the New Jersey BPU through an exhaustive pricing proceeding in which it established rates that it found comply fully with this Commission's TELRIC methodology. Indeed, Verizon's new loop and switching rates in New Jersey — which are now in effect — are entitled to a strong presumption of TELRIC compliance under the Commission's own framework, because the rates for these elements are *lower* than the rates that the Commission found TELRIC-compliant in New York, even though the cost-to-rate ratio in New Jersey is comparable to the cost-to-rate ratio in that State.

Verizon also is subject to a comprehensive performance assurance plan in New Jersey. This plan was approved by the New Jersey BPU, and places an unlimited amount of bill credits at risk annually. As one New Jersey commissioner has stated, this is a “pretty unprecedented number.”

Despite all this, the long distance incumbents and others will no doubt attempt to use this proceeding to generate delay in order to maintain a competitive advantage. In particular, they will likely argue, as they did *ad nauseam* during the State proceedings, that Verizon's Application should be denied because there is too little local competition for residential customers in New Jersey. But as this Commission repeatedly has held, such facts — even if true (and they are not true here) — are irrelevant under the Act. Rather, “[g]iven an affirmative showing that the competitive checklist has been satisfied, low customer volumes or the failure of any number of companies to enter the market in and of themselves do not undermine that showing.” Moreover, the very fact that Verizon's opponents made the level of residential competition in New Jersey their principal argument against this Application at the state level is telling proof that these opponents have no genuine disputes with respect to those areas of Verizon's performance that *are* relevant under the Act.

In any event, the fact that the long distance incumbents and their allies have chosen not to focus on the residential market in New Jersey to date is hardly surprising. Even aside from the fact that their pattern of conduct in other States has been to enter the mass market only once the Bell company in that State either has or is on the verge of receiving long distance authority, their reticence is all the less surprising here given the exceedingly low retail rates for basic residential service in New Jersey. Indeed, residential rates in New Jersey are the *lowest* in the entire country — only \$8.19 per month for flat-rate local service. But as this Commission has made clear, the level of *retail* rates set by State regulators — and the fact that competing carriers may have chosen not to enter certain market segments because of those rates — is not relevant for section 271 purposes.

Finally, as the Commission has recognized, experience in other States proves conclusively that Verizon's long distance entry will produce enormous benefits. Indeed, actual experience proves that Verizon's entry will both promote local competition and create significant benefits for customers of long distance service.

Local competition has increased dramatically in those in-region states where Verizon and other Bell companies have been authorized to provide long distance service. In New York, for example, local competition exploded after Verizon's entry: competitors in New York served just over one million lines at the time of Verizon's application; today they serve more than three million lines. One independent consumer group has estimated that the increase in *local* competition as a result of Verizon's entry is saving consumers in New York up to *\$400 million per year*. And the Commission itself has concluded that "states with long distance approval show [the] greatest competitive activity."

In addition to prompting the long distance incumbents to enter the local mass market for the first time, Verizon's entry also has allowed it to introduce simpler and less expensive long distance services tailored to benefit the mass-market customers that the incumbents historically have preferred to abandon or ignore. As a result of these innovative new plans, more than 2.1 million customers in New York have switched their long distance service to Verizon. According to the same consumer group mentioned above, the increase in *long distance* competition as a result of Verizon's entry is saving consumers in New York up to nearly *\$300 million dollars per year*.

By any measure, therefore, Verizon's entry into the long distance market in other states has greatly enhanced both local and long distance competition. Consumers in New Jersey — where Verizon's local markets are open to the same degree as in these other states — are now entitled to receive these same benefits. Indeed, the consumer group mentioned above has recently estimated that New Jersey consumers will save up to *\$167 million per year* following Verizon's entry into the long distance market.

The Commission should grant this Application.

I. VERIZON'S APPLICATION SATISFIES THE REQUIREMENTS OF SECTION 271(c)(1)(A).

Verizon meets the requirements to file this Application under so-called "Track A." See 47 U.S.C. § 271(c)(1)(A). Whether they are viewed collectively or individually, competitors in New Jersey are providing service predominantly over their own facilities to both residential and business subscribers.

As in New York, Massachusetts, and Pennsylvania, competitors in New Jersey have invested enormous sums in competing facilities throughout the State. See Taylor Decl. ¶¶ 8-9 & Att. 1 ¶¶ 7-8. There are at least 20 competing carriers in New Jersey that actively provide service either wholly or partially over facilities they have deployed themselves, including the two largest long distance carriers who together serve literally hundreds of thousands of lines in the State. See id. ¶ 8 & Att. 1 ¶¶ 14, 29, 31. Collectively, these carriers have deployed more than 50 local voice switches and at least 3,300 route miles of local fiber. See id. ¶ 9 & Att. 1 ¶ 7. At least 12 of these carriers use their own facilities to serve 1,000 or more lines, and at least five carriers serve 10,000 or more lines. See id. Att. 1 ¶ 15. These facts not only prove that the requirements of Track A are satisfied, but also that competitors have voted with their wallets, demonstrating their own belief that local markets in New Jersey are open and will stay that way. As the Department of Justice has explained, the fact that competitors have "commit[ted] significant irreversible investments to the market (sunk costs) signals their perception that the requisite cooperation from incumbents has been secured or that any future difficulties are manageable."¹

¹ Affidavit of Marius Schwartz ¶ 174, Competitive Implications of Bell Operating Company Entry Into Long-Distance Telecommunications Services (May 14, 1997) ("Schwartz Aff."), attached at Tab C to Evaluation of the United States Department of Justice, Application of SBC Communications Inc. et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in the State of Oklahoma, CC Docket No. 97-

On a collective basis, even by conservative estimates, competing carriers in New Jersey served approximately 361,000 lines as of October 2001 using facilities they have deployed themselves (including in all cases their own local switches). See Taylor Decl. Att. 1 ¶ 3. In addition, as of that same date, competing carriers in New Jersey served approximately 22,000 lines using unbundled network element platforms. See id.² By comparison, as of October, competitors served fewer than 182,000 lines in New Jersey through resale. See Taylor Decl. Att. 1 ¶ 3. Overall, therefore, competing carriers in New Jersey unquestionably are providing service on a predominantly facilities basis.

There likewise is no question that competing carriers are providing facilities-based service to both business and residential customers in New Jersey. Indeed, there are at least four competing carriers — Broadview Networks, eLEC Communications, Network Plus and MetTel — that actively provide telephone exchange service to both business and residential customers in New Jersey over their own facilities (including UNE platforms). See id. Att. 1 ¶¶ 23-27.³ Collectively, as of October 2001, these four carriers served approximately 10,200 business lines

121 (FCC filed May 16, 1997) (“DOJ Oklahoma Evaluation”).

² As the Commission previously has held, lines served through unbundled network elements (including pre-assembled platforms of such elements) qualify as a competitor’s own facilities for the purposes of the Track A requirements. See Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, Memorandum Opinion and Order, 12 FCC Rcd 20543, ¶ 101 (1997) (“Michigan Order”); Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, Memorandum Opinion and Order, 16 FCC Rcd 6237, ¶¶ 41-42 (2001) (“Kansas/Oklahoma Order”).

³ Of course, for Track A purposes, it is not necessary that an individual carrier serve both business and residential customers. See Application of BellSouth Corp., et al., for Provision of In-Region, InterLATA Services in Louisiana, Memorandum Opinion and Order, 13 FCC Rcd 20599, ¶ 46 n.126 (1998) (“Second Louisiana Order”) (“[W]hen a BOC relies upon more than one competing provider to satisfy [Track A], each such carrier need not provide service to both residential and business customers. The requirements of [Track A] are met if multiple carriers collectively serve residential and business customers.”). Here, however, there are four individual carriers who do.

and approximately 850 residential lines over their own facilities (including platforms). See Taylor Decl. Att. 1 ¶¶ 24-27. By comparison, as of that same date, these four carriers served only approximately 3,800 business lines and 900 residential lines through resale. See id. Overall, therefore, these four competing carriers are collectively providing service predominantly over their own facilities to business and residential subscribers.

Moreover, just as this is true overall, it also is true of individual carriers. For example, just looking at three of the four carriers providing facilities-based residential service in New Jersey, they too are providing service predominantly over their own facilities to business and residential subscribers.⁴

1. Broadview Networks. — Broadview Networks describes itself as a “leading-edge electronically integrated communications provider serving small and medium-sized business and residential customers in the Northeast.”⁵ According to the company’s website, it began providing service in New Jersey in October 2000.⁶ Although the information available to Verizon necessarily understates the number of facilities-based lines, as of October 2001, Broadview served approximately *** lines — including *** residential lines — either wholly or partially over facilities it deployed itself (including in all cases its own local

⁴ MetTel also provides service predominantly over its own facilities to business and residential subscribers, however, its interconnection agreement with Verizon has not yet been approved by the New Jersey BPU. As of October 2001, MetTel served approximately *** lines through unbundled network element platforms, including approximately *** lines provided to residential customers. See Taylor Decl. Att. 1 ¶ 27. In contrast, MetTel appears to serve approximately *** lines, including approximately *** residential lines, through resale. See id.

⁵ Broadview Networks, About Us, at http://www.broadviewnet.com/about_us/about_us_frame.asp?ID=1.

⁶ Broadview Networks Press Release, Broadview Networks Enters New Jersey Communications Market (Oct. 18, 2000).

switches). See Taylor Decl. Att. 1 ¶ 24.⁷ In addition, Broadview serves another approximately *** business lines using unbundled network element platforms. See Taylor Decl. Att. 1 ¶ 24. In contrast, Broadview appears to serve approximately *** lines, including *** residential lines, through resale. See id.

2. **eLEC.** — eLEC (formerly Essex) provides service to business and residential customers in New Jersey primarily through unbundled network element platforms. According to the company's own press release, it began using platforms in New Jersey in November 2000.⁸ The company's CEO stated at that time that, "In New Jersey, we will be able to flip current customers with approximately 8,000 resale lines to UNE-P over the next few days, which will dramatically increase our gross margins in New Jersey from 5% to over 30%."⁹ As of October 2001, eLEC served approximately *** lines through unbundled network element platforms, including approximately *** residential lines. See Taylor Decl. Att. 1 ¶ 25.¹⁰ As of that same date, eLEC served approximately *** lines through resale, including approximately *** residential resale lines. See Taylor Decl. Att. 1 ¶ 25.

3. **Network Plus** — Network Plus provides local telephone services in New Jersey using unbundled network element platforms and through resale. See id. Att. 1 ¶ 26. As of October 2001, Network Plus served approximately *** lines in New Jersey through unbundled network element platforms, including approximately *** residential lines.

⁷ Broadview's interconnection agreement with Verizon was approved in 2001. See App. H, Tab 6.

⁸ See eLEC Communications Press Release, eLEC Communications Adds New Jersey and Rhode Island UNE-P Network Increasing Operational UNE-P Network Coverage to Seven States; Plans Conversion of Over 8,000 New Jersey Resale Lines by End of Year (Nov. 27, 2000).

⁹ Id.

¹⁰ eLEC's interconnection agreement with Verizon was approved in 2000. See App. H, Tab 5.

See id.¹¹ As of that same date, Network Plus served approximately *** lines through resale, including approximately *** residential resale lines. See Taylor Decl. Att. 1 ¶ 26.

It is not necessary for the Commission to rely on residential resale here, of course, because at least three competitors with approved interconnection agreements are providing service to residential customers over their own facilities (including platforms). Nonetheless, the Commission previously has made clear that, where competing carriers are providing facilities-based service to business customers, the Commission also may rely for Track A purposes on the fact that competitors in New Jersey serve a large number of residential lines through resale.¹² Here, competing carriers serve approximately 56,000 residential lines through resale, further buttressing the conclusion that Track A is satisfied. In fact, although many of the facilities-based CLECs in New Jersey have chosen not to use resale at all, others provide facilities-based service to business customers and resale service to residential customers. In addition to the qualifying Track A carriers described above who serve residential customers both on a facilities-basis and through resale, at least two additional competing carriers in New Jersey — Cavalier (formerly

¹¹ Network Plus's interconnection agreement with Verizon was approved in 2001. See App. H, Tab 8.

¹² See, e.g., Kansas/Oklahoma Order ¶ 43 n.101 (stating that, even in the absence of evidence that competitors in Kansas were serving residential customers on a facilities basis, the Commission "likely would not have denied this application on 'Track A' grounds, and would have relied on the existence of competitors' service to residential customers through resale."); Second Louisiana Order ¶ 48 ("[I]t does not appear to be consistent with congressional intent to exclude a BOC from the in-region, interLATA market solely because the competitors' service to residential customers is wholly through resale."); see also Addendum to the Evaluation of the United States Department of Justice, Application of SBC Communications Inc. et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in the State of Oklahoma, CC Docket No. 97-121, at 3 (FCC filed May 21, 1997) ("it does not matter whether the competitor reaches one class of customers — e.g., residential — only through resale, provided that the competitor's local exchange services as a whole are provided 'predominantly' over its own facilities").

Conectiv) and Corecomm (formerly ATX) — provide facilities-based business service and residential service through resale.¹³ Accordingly, these two carriers also independently satisfy Track A.¹⁴

Despite all this, some of the long distance carriers or others who have consciously chosen not to enter the residential market may try to argue that the number of facilities-based residential lines in New Jersey is not enough for Track A purposes. But the Commission has expressly refused to impose a market-share requirement (as did Congress before it) and has held that the Track A requirements are satisfied so long as the number of competing lines is not “*de minimis*.” Accordingly, any such claims cannot be supported by the facts or the law.

First, the total number of facilities-based residential lines in New Jersey is comparable to what the Commission has found acceptable in prior applications. Specifically, the approximately 850 facilities-based residential lines in New Jersey is proportionally equivalent to approximately 4,000 facilities-based residential lines in Kansas, which is far more than the number of competitive lines that the Commission found satisfied Track A in that State. See

¹³ While the information available to Verizon necessarily understates the number of facilities-based lines, Cavalier served approximately *** business lines either wholly or partially over facilities it deployed itself (including in all cases its own local switches) as of October 2001. See Taylor Decl. Att. 1 ¶ 37. As of that same date, Cavalier appeared to serve approximately *** residential lines through resale. See id. Corecomm served approximately *** business lines in New Jersey either wholly or partially over facilities it deployed itself (including in all cases its own local switches) as of October 2001. See id. Att. 1 ¶ 43. As of that same date, Corecomm appeared to serve approximately *** residential lines through resale. See id.

¹⁴ Although both Cavalier and Corecomm at the moment may provide more lines through resale than through their own facilities, this is irrelevant for Track A purposes. Indeed, interpreting Track A to require the number of facilities-based lines a carrier serves to exceed the number of resale lines it serves would lead to absurd results. For example, under such a reading of the statute, a carrier that served 500,000 residential and business lines over its own facilities, but 510,000 residential and business lines through resale, would not satisfy the requirements of Track A, but a carrier that served 10,000 business and residential lines over its own facilities and no resale lines would.

Kansas/Oklahoma Order ¶ 41 (finding that Sprint satisfied the requirements of Track A); Brief of the Federal Communications Commission at 41, Sprint Communications Co. v. FCC, No. 01-1076 (D.C. Cir. filed June 14, 2001) (explaining that the “FCC’s conclusion that Sprint qualifies as a competing provider of residential service under Track A” was based on the fact that, by the time SBC filed its application, “Sprint was ‘actively marketing’ its facilities-based residential service in Kansas, and had already billed 56 of its 184 residential customers there”). Moreover, the number of facilities-based residential lines served individually by at least two of the qualifying carriers here (eLEC and Broadview) also is proportionately equivalent to or greater than the number served by Sprint in Kansas.

Second, for the purposes of qualifying under Track A, the only relevant question under the statute is whether a carrier is a “competing provider,” which the Commission has interpreted as a carrier that provides “an actual commercial alternative to the BOC.” See, e.g., Michigan Order ¶ 77; Oklahoma Order ¶ 14. There is no question that the carriers providing facilities-based residential service in New Jersey provide an actual commercial alternative to Verizon. For example, each appears to be actively offering service to substantial numbers of residential customers in New Jersey today. See Taylor Decl. Att. 1 ¶¶ 24-27; Oklahoma Order ¶ 17 (for purposes of Track A, a CLEC becomes a “competing provider” if it moves “beyond the testing phase” and has “actually [entered] the market.”). Three of the qualifying carriers here — Broadview, eLEC, and Network Plus — serve a total of *** **, **, and *** lines, respectively, see Taylor Decl. Att. 1 ¶¶ 24-26, which demonstrates that they have “actually entered the market,” to use the Commission’s words.

Third, as the Commission has held, it would be inconsistent with congressional intent to focus the Track A inquiry narrowly on facilities-based residential competition. See, e.g., Second

Louisiana Order ¶ 48 (“[I]t does not appear to be consistent with congressional intent to exclude a BOC from the in-region, interLATA market solely because the competitors’ service to residential customers is wholly through resale.”). For that very reason, the Commission has held that it would “likely” consider evidence of residential resale lines in its Track A analysis.

Kansas/Oklahoma Order ¶ 43 n.101. As described above, there are a substantial number of residential resale lines in New Jersey, which proves that the overall level of residential competition in New Jersey is far from *de minimis*.

Finally, the claim that competitors serve only a *de minimis* number of facilities-based lines in New Jersey boils down to the shopworn argument that section 271 should be interpreted to include some kind of market-share test. As the Commission has held, however, there is no requirement under Track A “that a new entrant serve a specific market share . . . to be considered a ‘competing provider.’” Michigan Order ¶ 77. Indeed, both “the Senate and House each rejected language that would have imposed such a requirement.” Id.; see also Massachusetts Order ¶ 235.¹⁵ The relevant question under Track A is instead whether there is a carrier that is “in the market and operational (i.e., accepting requests for service and providing such service for a fee).” Michigan Order ¶ 75; see also Massachusetts Order ¶ 225. And as described above, there are multiple carriers in New Jersey that easily fit that description.

¹⁵ Application of Verizon New England Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Massachusetts, Memorandum Opinion and Order, 16 FCC Rcd 8988 (2001) (“Massachusetts Order”).

II. VERIZON SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE *CHECKLIST IN NEW JERSEY.*

Verizon unquestionably satisfies the requirements of the competitive checklist in New Jersey. Verizon is making all 14 checklist items available under the legally binding obligations in its tariffs and interconnection agreements. See Lacouture/Ruesterholz Decl. ¶ 5.¹⁶ Moreover, Verizon is providing the checklist items in large commercial quantities. For example, as of October 2001, Verizon had provided nearly 320,000 interconnection trunks; 940 collocation arrangements; 80,000 unbundled loops (including DSL loops and platforms); 182,000 resold lines; 122,000 directory listings; and 298,000 ported numbers. See Lacouture/Ruesterholz Decl. ¶¶ 13, 40, 76, 278, 318, 333; Brief Att. A, Ex. 1.

Most of the wholesale systems and processes that Verizon uses in New Jersey are the same as those used throughout the former Bell Atlantic States, including New York, Massachusetts, Pennsylvania, and Connecticut. See McLean/Wierzbicki/Webster Decl. ¶¶ 7-8; Lacouture/Ruesterholz Decl. ¶ 7. With the enactment of the 1996 Act, Verizon was required to develop many new wholesale interfaces, systems, and processes for competing carriers, and Verizon has taken part in industry collaborative proceedings supervised by the New York Public Service Commission (“PSC”) to help it develop these systems. See McLean/Wierzbicki/Webster Decl. ¶ 7. Using input from these proceedings, Verizon developed a common set of wholesale interfaces across the entire footprint of the former Bell Atlantic (including the Verizon New Jersey territory), and likewise implemented a common set of processes and procedures. See id. ¶¶ 7-8.

¹⁶ There currently is no ongoing litigation under 47 U.S.C. § 252(e)(6) that relates to these approved agreements.

Verizon accordingly provides each of the checklist items in New Jersey in substantially the same manner and using substantially the same processes and procedures that Verizon uses in its 271-approved States — New York, Massachusetts, Pennsylvania, and Connecticut. See id.; Lacouture/Ruesterholz Decl. ¶ 7. Likewise, Verizon provides those checklist items in New Jersey using the same OSS gateways and interfaces as in Verizon’s 271-approved States. See McLean/Wierzbicki/Webster Decl. ¶ 8. And, of course, the Commission has already found that these systems, interfaces, processes, and procedures meet all the requirements of the Act. See Pennsylvania Order ¶ 11; Massachusetts Order ¶¶ 50, 70, 90, 95, 97, 102; New York Order ¶ 82; Connecticut Order ¶ 51.¹⁷

The significance of this is straightforward: It establishes a presumption that the manner in which Verizon provides the checklist items in New Jersey likewise meets the Act’s requirements. As the Commission has previously held, where an aspect of an applicant’s checklist showing is “materially indistinguishable” from a showing in another state, the Commission will use its prior determination “as a starting point for [its] review” and “review any new data or information” from the parties only “to determine whether a different result is justified.” First Louisiana Order ¶¶ 1, 3.¹⁸

¹⁷ Application of Verizon Pennsylvania Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Pennsylvania, Memorandum Opinion and Order, 16 FCC Rcd 17419 (2001) (“Pennsylvania Order”); Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999) (“New York Order”); Application of Verizon New York Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Connecticut, Memorandum Opinion and Order, 16 FCC Rcd 14147 (2001) (“Connecticut Order”).

¹⁸ Application by BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Louisiana, Memorandum Opinion and Order, 13 FCC Rcd 6245 (1998) (“First Louisiana Order”); see also Second Louisiana Order ¶ 56 (where BOC “provides access to a particular checklist item through a region-wide process, such as its OSS, [the Commission] will consider

Moreover, this presumption is doubly strong in New Jersey, where competitors are successfully using the checklist items in large volumes to enter the local market statewide using all three entry paths available under the Act. As the Department of Justice has explained, “[i]f actual, broad-based entry through each of the entry paths contemplated by Congress is occurring in a state, this will provide invaluable evidence supporting a strong presumption that the BOC’s markets have been opened.” DOJ Oklahoma Evaluation at 43. Likewise, the Commission has found that “[t]hese results bear out the fact that Verizon has made extensive efforts to open its local markets in compliance with the requirements of the Act.” Massachusetts Order ¶ 3.

In the case of New Jersey, overwhelming evidence backs up the presumption of openness.

First, Verizon’s actual performance in providing access to each of the 14 checklist items is excellent across the board. In New Jersey, from August through October, Verizon met the due dates for providing interconnection trunks to CLECs 99.5 percent of the time and the due dates for providing physical collocation arrangements 100 percent of the time. See Lacouture/Ruesterholz Decl. ¶¶ 23, 42-43. During this same period, Verizon met the due dates for providing access to loops and other unbundled elements in New Jersey — including the due dates for all major subsets of loops — between 96 and 99 percent of the time or more. See id. ¶¶ 80, 94, 117, 141, 212.

Second, Verizon’s systems have undergone “independent third party” testing on which Verizon received a perfect score. Massachusetts Order ¶ 44; see McLean/Wierzbicki/Webster Decl. ¶ 10. Like the tests in Verizon’s 271-approved States, the KPMG test in New Jersey was “broad in scope,” “independent and blind,” and used a “military-style test standard.”

both region-wide and state specific evidence in [its] evaluation of that checklist item”).

Massachusetts Order ¶¶ 44-45; see also Pennsylvania Order ¶ 31. This test accordingly provides “persuasive evidence of Verizon’s OSS readiness.” Massachusetts Order ¶ 46. Altogether, the KPMG test evaluated 536 separate areas relating to Verizon’s systems; Verizon satisfied *all* test points. See McLean/Wierzbicki/Webster Decl. ¶¶ 10, 23; Guerard/Canny/DeVito Decl. ¶ 134; Lacouture/Ruesterholz Decl. ¶ 8; KPMG Consulting, Verizon New Jersey Inc. OSS Evaluation Project Final Report, Version 2.0, at 22 (rel. Oct. 12, 2001) (“KPMG NJ Report”) (App. C, Tab 4). Indeed, based on these superior results, even WorldCom has been forced to concede that “KPMG did an excellent job on the OSS test in this state. In fact, one of the best.” Consultative Report of the Application of Verizon-New Jersey, Inc. for FCC Authorization To Provide In-Region, InterLATA Services in New Jersey, Transcript of Hearing, Docket No. TO001090541, at 38 (NJ BPU Nov. 5, 2001) (“November 5, 2001 Transcript”) (App. B, Tab 5).

Third, Verizon reports its performance under measurements that “track Verizon’s performance on functions essential to an open, competitive local market.” Massachusetts Order ¶ 237; see Guerard/Canny/DeVito Decl. ¶ 10. Verizon uses measurements in New Jersey that, with a few exceptions, are identical to the ones that Verizon used in Pennsylvania at the time Verizon filed its application in that State. See Guerard/Canny/DeVito Decl. ¶ 20. To the extent that the measurements in New Jersey differ from those in Pennsylvania, it is because they contain additional measurements, including DSL measurements that were originally developed in the New York DSL collaborative proceedings as well as a few additional measurements that were established by the New Jersey BPU. See id. ¶¶ 16, 19-20. Moreover, Verizon’s performance measurements, including three months of performance data and the methods for storing and processing performance data, have been independently validated by KPMG following an exhaustive analysis. See id. ¶ 134.

Finally, Verizon is subject to a comprehensive performance assurance plan in New Jersey. This plan places an unlimited amount of bill credits at risk annually in New Jersey. See id. ¶ 164. As one of the state regulatory commissioners in New Jersey has remarked, the amount at risk in the State is indeed a “pretty unprecedented number.” Investigation Regarding Local Exchange Competition for Telecommunications Services; Investigation Regarding the Status of Local Exchange Competition in New Jersey — Performance Standard Remedies, Board Meeting Transcript, Docket Nos. TX95120631 & TX98010010, at 8 (NJ BPU Oct. 12, 2001) (“October 12, 2001 Transcript”) (App. E, Tab 13). Consequently, the New Jersey plan provides added assurance that Verizon will continue to provide high-quality service to competing carriers.

Despite all this, competitors still will claim that this Application should be denied because Verizon has not yet attained an unattainable level of absolute perfection. Significantly, however, CLECs raised very few issues during the course of the State proceedings regarding Verizon’s compliance with the checklist. In an effort to muddy the waters and delay Verizon’s long distance entry, CLECs focused instead on a litany of issues that the Commission already has found are irrelevant under the Act, such as the level of residential competition, access-charge rates, universal service, and special access. CLECs also continued to argue that Verizon should be required to modify its checklist offerings in ways that go beyond the requirements of the Act. Finally, with respect to the few checklist-related issues that CLECs did raise, Verizon has fully addressed their concerns.

In any event, the Commission has repeatedly made clear that it will evaluate a BOC’s performance “based on the totality of the circumstances,” and “an apparent disparity in performance for one measure, by itself, may not provide a basis for finding noncompliance with